IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF NOVEMBER,
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 5810 of 1999

Between:

1. Thota Pedda Narasimha Rao, S/o. Ramulu,
   R/o. Pothepalem (V), Krishna District.
2. Thota Yedukondalu, S/o. Ramulu,
   R/o. Pothepalem (V), Krishna District.

..... PETITIONERS

AND

1. District Collector, Krishna District,
   Machilipatnam, Andhra Pradesh.
2 Land Acquisition Officer cum Revenue Divisional Officer,
   Machilipatnam, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus declaring that the Land Acquisition Proceedings initiated by respondents on 28-3-1990 and the consequential proceedings including passing of Award in Award No.3/93 dated 19-4-1993 are illegal, arbitrary and in violation of principles of natural justice and contrary to the mandatory provisions of the Land Acquisition

Counsel for the Petitioners: MR.P.R.PRASAD

Counsel for the Respondent Nos.1&2: GP FOR LAND ACQUISITION

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.5810 OF 1999

ORDER:

The petitioners are residents of Machavaram village in Machilipatnam Mandal of Krishna District. They jointly purchased small extent of house site forming part of R.S.No.30 of said village under registered sale deeds dated 03.11.1986 and raised small sheds. The respondents initiated proceedings under Land Acquisition Act, 1894, (the Act, for brevity), in the year 1991 proposing to acquire the lands for extension of industrial estate for A.P.Industrial Infrastructure Corporation (A.P.I.I.C). An award was also passed. The petitioners challenge those proceedings contending that though they purchased the property from the vendors in 1986, their names did not appear in the notification issued under Section 4(1) of the Act or declaration under Section 6(1) of the Act and that the Land Acquisition Officer has not issued any notice to them either under Sections 9(1) or 9(2) of the Act. They also assailed the notifications dispensing with enquiry under Section 5-A of the Act.

In the counter affidavit filed by the second respondent on behalf of the respondents along with W.V.M.P.No.2459 of 2004 for vacating the interim orders, the second respondent states that after issuing notification under Section 4(1) of the Act on 03.03.1990, enquiry under Section 5-A of the Act was conducted on 28.07.1990, that the first petitioner and his father Sri Ramulu attended the enquiry and filed their written objections and that after considering the same, the orders were passed by the Land Acquisition Officer on 13.03.1991 rejecting the objections. It is the further case of the respondents that after conducting enquiry under Section 5-A of the Act, declaration under Section 6(1) of the Act issued and published in the Gazette as well as Newspapers. After conducting enquiry, an award was passed granting compensation of Rs.20,06,952/- (Rupees twenty lakh six thousand nine hundred and fifty two only), which includes the cost of the structures. Notice of the award was also issued on 01.05.1993. It is further stated that as the petitioners did not claim the compensation, the case was registered as L.A.O.P.No.57 of 1993 on the file of the Court of the Senior Civil Judge, Machilipatnam and the compensation amount was kept in the Civil Court Deposit under Section 31(2) of the Act.

The matter was heard at length on 15.09.2004 and 29.09.2004. Having regard to the controversy raised in the writ petition, the learned Assistant Government Pleader

was directed to produce the entire record relating to land acquisition proceedings. The records are produced before this Court and after perusing the same, this Court is satisfied that the notification under Section 4(1) of the Act and declaration under Section 6(1) of the Act, contain the names of the vendors of the petitioners and an enquiry was conducted under Section 5-A of the Act on 13.03.1991, when the first petitioner appeared before the Land Acquisition Officer. Be that as it is, as the amount is lying in Civil Court Deposit to the credit of L.A.O.P.No.57 of 1993, the petitioners may approach the Civil Court and obtain necessary orders for release of the amount. In this writ petition, no relief can be granted in favour of the petitioners declaring the award as illegal after lapse of about a decade. Liberty is given to the petitioners to approach the Court of the Senior Civil Judge, Machilipatnam and file appropriate application in L.A.O.P.No.57 of 1993.

The writ petition is accordingly disposed of.

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(V.V.S.RAO,J)

02.11.2004.

pln

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1.The District Collector, Krishna District, Machilipatnam, Andhra Pradesh.

2.The Land Acquisition Officer-cum-Revenue Divisional Officer,

Machilipatnam, Krishna District.

3.Two C.Cs. to the Government Pleader for Land Acquisition, High Court

Buildings, Hyderabad. (O.U.T.)

4. Two C.D. copies.